UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.		Docket No. ER25-1357-000

PROTEST OF JOINT CONSUMER ADVOCATES

Pursuant to Rule 211(a) of the Federal Energy Regulatory Commission's (FERC or Commission) Rule of Practice and Procedure, 18 C.F.R. § 385.211(a)(1), the February 21, 2025 Combined Notice of Filings #1,[1] and the March 12, 2025 Notice of Extension of Time,[2] the Joint Consumer Advocates (JCA)[3] protest the Federal Power Act (FPA) section 205[4] filing by PJM Interconnection, L.L.C. (PJM) of tariff changes to establish a "price collar" to constrain the outcomes of the next two Base Residual Auctions (BRAs).[5] Because PJM's filing inappropriately pairs a reasonable change (reducing the existing auction price cap) with an unreasonable one (creating a new price floor), the Commission should find the filing to be unjust and unreasonable, reject it, and instead grant the

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[1] eLibrary No. 20250221-3053.

[2] eLibrary No. 20250312-3048.

[3] Joint Consumer Advocates are: the Illinois Attorney General's Office; Illinois Citizens Utility Board; Maryland Office of People's Counsel; New Jersey Division of Rate Counsel; Office of the Ohio Consumers' Counsel; and Office of the People's Counsel for the District of Columbia. Each of the Joint Consumer Advocates has moved separately to intervene in the above-captioned proceeding.

[4] 16 U.S.C. § 824d.

[5] PJM Interconnection, L.L.C., Proposal for Revised Price Cap and Price Floor for the 2026/2027 and 2027/2028 Delivery Years, and Request for a Waiver of the 60-Days' Notice Requirement to Allow for a March 31, 2025 Effective Date (Feb. 20, 2025), eLibrary No. 20250220-5122 (PJM Price Collar Filing).

complaint filed by Governor Josh Shapiro and the Commonwealth of Pennsylvania (Pennsylvania),[6] which seeks only the reasonable change to the auction price cap.[7]

Both the Pennsylvania Complaint and the PJM Price Collar Filing correctly propose changes that reduce the existing market price cap, from \$500/MW-day[8] to either \$300/MW-day[9] or \$325/MW-day.[10] As Pennsylvania and the Joint Consumer Advocates have explained,[11] the lower market price cap is needed to prevent an unjustified wealth transfer from consumers to suppliers where extremely high auction clearing prices are not able to overcome non-price entry barriers and are much higher than have been needed to support entry in past auctions absent such barriers.

PJM's filing goes further, however, and introduces an unjust and unreasonable new price floor—set at a level higher than the highest "Rest of RTO" clearing price in any BRA except the one for the 2025/2026 Delivery Year. That proposed new floor either will prove irrelevant (because entry barriers and allowed withholding keep prices above the floor) or it will bind and raise consumer costs needlessly: If the floor sets the clearing price in either

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[6] Complaint of Governor Josh Shapiro and the Commonwealth of Pennsylvania, *Commonwealth of Pennsylvania v. PJM Interconnection, L.L.C.,* Docket No. EL25-46-000 (Dec. 30, 2024), eLibrary No. 20241230-5225 (Pennsylvania Complaint).

[7] This protest is supported by the Fifth Declaration of Marc D. Montalvo, which is an attachment to this protest (Montalvo Price Collar Decl.).

[8] PJM's existing market price cap is set at the higher of the Reference Resource's Gross Cost of New Entry (Gross CONE) or 1.75 times its Net Cost of New Entry (Net CONE), which translates to about \$500/MW-day for a dual fuel combustion turbine (CT) Reference Resource. PJM Price Collar Filing at 15 & n.43, 22 n.62.

[9] The Pennsylvania Complaint proposes a replacement rate of 1.5 times Net CONE, which translated to about \$300/MW-day for a dual fuel CT Reference Resource. *Id.* at 21.

[10] The PJM Price Collar Filing proposes in installed capacity (ICAP) terms a cap that translates (using current Effective Load Carry Capacity (ELCC) values) to about \$325/MW-day (unforced capacity (UCAP)), which is just a bit more than 1.5 times what PJM says is an updated Net CONE of \$214/MW-day. *Id.* at 3.

[11] Pennsylvania Complaint at 17-22; Joint Consumer Advocates Comments in Support of Complaint at 6-10, *Commonwealth of Pennsylvania v. PJM Interconnection, L.L.C.,* Docket No. EL25-46-000 (Jan. 21, 2025), eLibrary No. 20250121-5184.

of the two upcoming auctions, it will be because entry barriers have eased and the region's suppliers are willing and able to sell capacity sufficient to meet the region's needs at prices below the floor. PJM offers no valid reason to elevate prices artificially in that situation, and doing so would violate the BRA's fundamental purpose to secure system reliability at least cost.[12]

Because the proposed price floor is unjust and unreasonable but may not be severable from PJM's proposed price cap reduction,[13] Joint Consumer Advocates urge the Commission to reject the filing. To effectuate the reasonable cap reduction without the unjustified new floor, the Commission should grant the Pennsylvania Complaint.

I. THE EXISTING MARKET PRICE CAP IS EXCESSIVE AND SHOULD BE REDUCED.

PJM's "auction price cap exists to ensure that the market does not exceed prices needed to incent a supply response."[14] When conditions are tight, capacity prices should rise, but the cap is supposed to prevent them from becoming "unnecessarily high."[15]

The existing market price cap fails to accomplish that objective. It would cap prices at the Gross CONE of a dual fuel combustion turbine Reference Resource: $500/MW-day. That is roughly double the unprecedented "Rest of RTO" price of the BRA for the

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[12] *N.J. Bd. of Pub. Utils. v. FERC*, 744 F.3d 74, 101 (3d Cir. 2014).

[13] *See NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017) (*NRG v. FERC*).

[14] Pennsylvania Complaint at 3.

[15] PJM Interconnection, L.L.C., Revisions to Reliability Pricing Model at 50 (Dec. 9, 2024), *PJM Interconnection, L.L.C.,* Docket No. ER25-685-000, eLibrary No. 20241209-5207 (PJM December 9 Filing) (citation omitted).

2025/2026 Delivery Year,[16] nearly triple the previous highest price,[17] and more than four times the average annual weighted price since 2007.[18] Setting a cap price at that level is unreasonable under current circumstances where the forces driving prices to the cap are not rising supply costs but rising demand combined with entry barriers that inhibit new supply additions *regardless of price*.[19] Interconnection backlogs, siting challenges, supply chain delays, and compressed forward auction periods have produced abnormally steep supply curves that are nearly vertical at their rightmost edges.[20]

PJM has acknowledged that these circumstances are a significant "shock to the capacity market" that goes "well beyond the range tested for the [Variable Resource

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[16] The 2025/2026 BRA cleared at $269.92/MW-day for the "Rest of RTO" region. PJM Price Collar Filing at 2.

[17] Comments of the Independent Market Monitor for PJM at 6, *PJM Interconnection, L.L.C.,* Docket No. ER25-682-000 (Jan. 6, 2025), eLibrary No. 20250106-5221 (Before the 2025/2026 BRA, "[t] he highest such weighted average capacity market price since 2007 was $172.71 per MW-day.").

[18] *Id.* ("Holding aside the artificially inflated price in the 2025/2026 BRA, the average of the annual weighted average capacity market prices since 2007 is $116.30 per MW-day.").

[19] *See* Attach. A (Montalvo Price Collar Decl.) ¶ 10 (internal footnotes omitted):

> [D]espite some recent PJM reforms to the market, PJM's queue backlog remains, and the delayed BRA means that the market provides none of the normal forward price information the design intended to enhance competition and coordinate entry and exit. At the same time, buyers are captive—i.e., all customers must purchase capacity at the clearing price and the market demand is based on a forecast that is changing rapidly and that has been shown to be systematically biased high. Under this set of conditions, the market does not send economic price signals that successfully balance supply and demand. Instead, absent a cap, it would set arbitrarily high prices that only reflect scarcity perpetuated by deficiencies in the rules and non-market barriers to entry.

See also id. ¶ 13 ("PJM states that given the combination of queue delays and a short BRA lead time, no price structure (with or without a price floor) can be expected to bring new greenfield generation into the market in the next two years, explaining that 'investors are not afforded sufficient time to initiate the process, develop, and get a new, greenfield generation facility in service by the subsequent Delivery Year.'") (quoting PJM Price Collar Filing at 24).

[20] PJM December 9 Filing at 49; *id.,* Attach. C, Aff. Of Samuel A. Newell on Behalf of PJM Interconnection, L.L.C. ¶ 13 & Fig. 2 (Dec. 9 Brattle Aff.).

Requirement (VRR)] curve" in the 2022 Quadrennial Review.[21] And it has explained that such "beyond design condition[]" circumstances may produce prices that are "partly inactionable" and "misaligned with design objectives,"[22] yielding compensation that is "higher and more concentrated than is ultimately needed to attract supply."[23] To put it more plainly: in a tight market where (as here) "entry is blocked by non-price barriers," prices will rise arbitrarily until the cap "set[s] the upper limit on what is still an extraordinary tax on consumers."[24] And while the payment of that "extraordinary tax" will mean enormous windfalls for incumbent generators, it will not address any of the concerns inhibiting a market response or otherwise provide any corresponding increase in expected reliability.[25]

Similarly, Pennsylvania has predicted that, absent additional reforms, the existing BRA design and $500/MW-day price cap will likely "leave consumers paying up to $20.4 billion in added costs over the next two years without receiving commensurate benefits in the form of new or retained generating capacity and increased reliability."[26] And PJM admits that concern remains despite the Commission's recent acceptance of certain PJM section 205 filings (in Docket Nos. ER25-682, ER25-712, ER25-778, and ER25-785) to reform the interconnection process and more fully recognize (and require the participation of) existing supply: "PJM recognizes that the recently proposed reforms may not . . . be sufficient to fully mitigate against the possibility of prices that reach a price cap in the

[21] PJM December 9 Filing at 45, 50-51 (citing *id.,* Attach. D, Aff. of Walter Graf and Skyler Marzewski on Behalf of PJM Interconnection, L.L.C. ¶ 49).

[22] Dec. 9 Brattle Aff. ¶ 15.

[23] PJM December 9 Filing at 51.

[24] Attach. A (Montalvo Price Collar Decl.) ¶ 6(d).

[25] *Id*. ¶ 5.

[26] Pennsylvania Complaint at 13-14.

upcoming [Reliability Pricing Model (RPM)] Auctions for the 2026/2027 and 2027/2028 Delivery Years."[27] Apart from interconnection queue delays and other "barriers to timely supply side response,"[28] the auctions' compressed forward periods (11 and 18 months, respectively) make it "unlikely that Capacity Market Sellers would be able to develop new, greenfield generation resources by these Delivery Years in response to price signals produced by the RPM Auctions."[29]

In short, PJM's existing market price cap is unjust and unreasonable because it allows prices to rise to excessive heights—multiples of previous record-high prices—that are likely *incapable* of overcoming non-price entry barriers and that have never been *needed* to elicit enough supply when such barriers are absent. PJM's proposal to reduce the cap for the next two auctions—to $325/MW-day (UCAP), almost the level that Pennsylvania recommended—is therefore an improvement to the status quo. While even such reduced amounts may be higher than necessary,[30] at least the PJM section 205 filing would move the cap in the right direction. The same cannot be said for PJM's price floor proposal.

II. THE COMMISSION SHOULD REJECT THE UNJUSTIFIED NEW PRICE FLOOR.

PJM's filing pairs the market price cap reduction with the introduction of a market price floor, an unjustified new price restraint that was not sought in the Pennsylvania

[27] PJM Price Collar Filing at 2.

[28] *Id.* at 11 (quoting Dec. 9 Brattle Aff. ¶ 5).

[29] *Id.* at 12.

[30] Attach. A (Montalvo Price Collar Decl.) ¶ 6(d) ("[T]here is no empirical or theoretical support for any claim that capacity prices must be set at $110/MW-day above the calculated Net Cost of New Entry (Net CONE) to induce that entry," when "[h]istorical BRA results clearly show that new capacity has entered the market at clearing prices significantly *below* PJM's Net CONE estimates.") (emphasis in original).

Complaint and, until now, has not been proposed as a "solution" to the BRA's current design flaws.[31] PJM proposes to set a minimum capacity clearing price corresponding to $175/MW-day (UCAP) for the next two auctions[32] and to clear all offers submitted at or below that price, regardless of quantity.[33] That proposal is unjust and unreasonable and should be rejected.

A. PJM has not alleged—let alone shown—that a price floor is needed to correct a market flaw and ensure just and reasonable rates.

"[T]he Commission generally does not approve of price floors."[34] If unexpectedly large amounts of additional supply participate in upcoming BRAs so that prices would drop below the proposed floor, that will be a good thing from which customers should benefit. Low prices in that situation would reflect market fundamentals and would be presumptively just and reasonable.[35] In fact, to impose a price floor in that situation would drive a wedge between market prices and fundamentals. PJM's proposal could have the

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[31] The Pennsylvania Complaint did not seek the imposition of a price floor, asserting instead that "such [a] novel concept[] [should only be addressed] during the quadrennial review process, not when today's constrained entry conditions block resources that wish to enter the market from doing so, irrespective of BRA clearing price." Pennsylvania Complaint at 24 n.87.

[32] PJM Price Collar Filing at 13. The proposed floor price is $138.25/MW-day ICAP, which translates to $175/MW-day UCAP based on current ELCC values. *Id.*

[33] *Id.* at 26 ("PJM does not propose to limit the amount of capacity PJM would procure were the marginal resource in the PJM Region to offer at a price less than approximately $175/MW-day.").

[34] *ISO New Eng.*, *Inc.*, 131 FERC ¶ 61,065, P 19, *clarified*, 132 FERC ¶ 61,122 (2010), *clarified on denial of reh'g,* 135 FERC ¶ 61,029 (2011), *on reh'g,* 138 FERC ¶ 61,027, *review denied sub nom. New Eng. Power Generators Ass'n v. FERC*, 757 F.3d 283 (D.C. Cir. 2014). Similarly, the Independent Market Monitor (IMM) for PJM has stated that he "continues to oppose the use of a floor price in the PJM capacity markets." Monitoring Analytics, *Analysis of the 2025/2026 RPM Base Residual Auction Part F* at 5 (Feb. 4, 2025), https://www.monitoringanalytics.com/reports/Reports/2025/IMM_Analysis_of_the_20252026_RPM_Base_Residual_Auction_Part_F_20250204.pdf.

[35] *See* Attach. A (Montalvo Price Collar Decl.) ¶ 10 ("[I]f there were surplus capacity, . . . the price would appropriately fall to a clearing level that reflected the prevailing supply-demand condition and the declining reliability value of that surplus"); *id.* ¶ 11 ("The market operates correctly under surplus . . . .").

"adverse impact of clearing more capacity than is required for reliability at a price above the cost of entry, overcharging consumers to shield investors from the market for a year."[36]

Although the Commission generally disapproves of price floors, it may accept them as a "transitional mechanism" to address identified market design "flaws" while more permanent and targeted fixes are developed.[37] But that is not the case here. PJM's Price Collar Filing does not even allege that a price floor is needed to remedy a market flaw or otherwise to ensure that clearing prices are just and reasonable.[38] Indeed, PJM sets the new floor price without reference to *any* market fundamentals. PJM's explanation for how it calculated the price floor is pure arbitrariness: the new floor price is merely the absolute value of the difference between the previous price cap ($500/MW-day) and the new price cap ($325/MW-day).[39]

B. PJM's purported "symmetry" justification is illogical.

PJM attempts to justify its proposal as a "symmetrical" response to lowering the market price cap.[40] The contention proves nothing. Symmetry is neither inherently valuable nor a reasonable response to an asymmetric problem. By PJM's logic, firefighters should respond to fires with both water hoses and flamethrowers. The flaw in that reasoning is self-evident.[41]

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[36] *Id.* ¶ 22.

[37] *ISO New Eng.*, *Inc.*, 131 FERC ¶ 61,065, P 19.

[38] To the contrary, PJM continues to assert that the "capacity market remains just and reasonable and is operating as designed, even absent the changes proposed in this filing," PJM Price Collar Filing at 8 (footnote omitted).

[39] *Id.* at 15 ("PJM[']s proposal here is to temporarily reduce the price cap and increase the price floor, each by $175/MW-day (UCAP) for the 2026/2027 and 2027/2028 Delivery Years).

[40] *Id.* at 6 (quoting *id.*, Attach. D, Aff. of Dr. Kathleen Spees and Dr. Samuel A. Newell on Behalf of PJM Interconnection, L.L.C. at 6 (Brattle Feb. 20 Aff.)).

[41] Affiants Newell and Spees suggest that both a cap and a floor are needed because doing so "offers a longer-term signal to investors that extraordinary interventions will not be one-sided." Brattle Feb. 20 Aff. at 6. But

As the problem PJM is trying to address is not symmetrical, "so it does not follow logically that the solution would be."[42] The problem identified in the Pennsylvania Complaint results from entry barriers preventing new supply from coming on line in time to satisfy the capacity supply obligations they would acquire if they clear the auction. Charging consumers sky-high prices will do nothing to address this concern; it will simply punish consumers and produce windfalls for existing suppliers.[43] Reducing the price cap helps to abate that unjust and unreasonable result.[44] In contrast, there is no symmetrical problem on the other side. If entry barriers are diminished so that ample new supply becomes available, then, absent an administrative price floor, the clearing price will drop until the supply and demand curves intersect. But that is not a problem; it is how the market is supposed to work.[45]

Unlike lowering the price cap, establishing a price floor would create a pricing problem instead of fixing one. The lower price cap will prevent overpayment at times when supply is tight but even very high prices cannot overcome the non-price barriers blocking entry. In contrast, PJM's price floor would cause overpayments at different times by requiring customers to pay more than needed for reliability when adequate supply is

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"interventions"—especially those that are "extraordinary"—should be limited to what is needed to address the problem at hand. Where the problem is "one-sided," as here, there is no need for a "two-sided" response.

[42] Attach. A (Montalvo Price Collar Decl.) ¶ 10.

[43] *Id.* ("Under this set of conditions . . . , absent a cap," the market would "set arbitrarily high prices that only reflect scarcity perpetuated by deficiencies in the rules and non-market barriers to entry.").

[44] *See Citadel FNGE Ltd. v. FERC*, 77 F.4th 842, 855 (D.C. Cir. 2023) (affirming the suspension of a Transmission Constraint Penalty Factor when circumstances prevented it from serving its intended purpose to stimulate additional supply).

[45] And by definition, every supplier with a cleared offer will receive more than its offer price.

available at lower prices.[46] Simply put, PJM's proposed price collar would not eliminate customer overcharges but shift the circumstances under which they occur.

C. PJM's proposed price floor is arbitrarily and excessively high.

PJM's proposal also would set the new market floor price at an arbitrarily high level. PJM computes the floor based on the reduction of the market price cap from an arbitrary baseline: the Gross CONE of a dual-fuel combustion turbine. Had PJM not changed the Reference Resource, the starting point would have been an even higher number: the Gross CONE of a combined-cycle generator (estimated around $700/MW-day). But that illustrates the illogic of PJM's approach. Measured from that starting point, the difference between the starting cap and the proposed cap would have been $375/MW-day, nonsensically yielding a price floor ($375/MW-day) that is even higher than the proposed cap ($325/MW-day). The reason why such an absurd result is possible is that there is no logical relationship between the amount by which an excessive price cap is reduced and whether any floor is needed or, if so, at what level.

Here, setting the floor equal to the proposed cap reduction yields a minimum price far above any conceivably justifiable amount. As noted above, PJM has set the proposed floor *above* the highest "rest of RTO" BRA clearing price ever experienced in the market before the most recent auction. Thus, despite PJM's purported desire for symmetry, its proposed "price collar" range is skewed dramatically upward and is notably *asymmetric*

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[46] *See* Brattle Feb. 20 Aff. at 6 (noting that the "narrower pricing band limits the range within which the market can enable competition and guide economically efficient entry and exit") and stating that the "would not recommend adopting a VRR curve with such a narrow band of possible pricing outcomes on a permanent basis").

around PJM's estimate of Net CONE.[47] The cap is $111/MW-day above PJM's most recent Net CONE estimate, but the floor is just $39/MW-day below that benchmark:

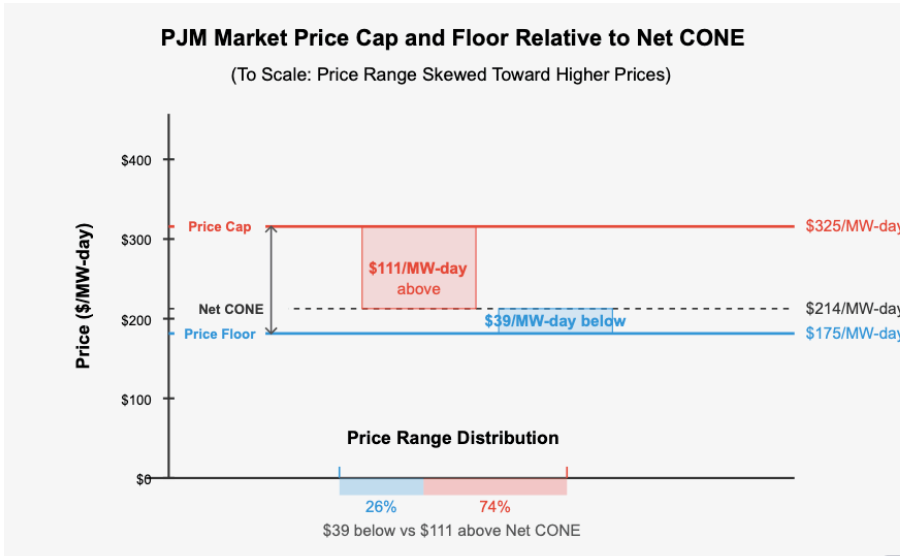

Figure 1

If PJM had proposed a truly symmetrical price collar, then the Net CONE would be the midpoint of the range between the floor and the cap. Thus, if the cap were $325/MW-day and Net CONE were $215/MW-day, the floor of a symmetrical price collar would be $105/MW-day.[48]

But even that "symmetric" result would be unjust and unreasonable as PJM has not shown that any price floor—much less $175/MW-day—is appropriate. As witness Montalvo explains:[49]

> [I]t is likely that the high prices seen in the last BRA, the projected high prices for the next BRA, and PJM's projection of a continuing multi-year capacity crisis will attract the attention of any supply that is able to respond in a

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[47] Attach. A (Montalvo Price Collar Decl.) ¶ 12. As witness Montalvo has observed, PJM's Net CONE estimates are themselves skewed upward and exceed substantially the real, observed prices at which new supply resources historically have entered the market. *Id.* ¶ 6(d) & Ex. 1.

[48] *Id.* ¶ 12.

[49] *Id.* ¶ 15.

> timely manner. PJM does not support its claims that a two-year price floor layered on top of the $270/MW-day RTO-wide price from 2025/2026 BRA and the prospect of prices in the 2026/2027 BRA at $325/MW-day improves economic entry incentives. Moreover, PJM fails to show why suppliers need a two-year price lock for all quantities offered. The floor price distorts bidding incentives, puts customers at risk for load forecast error that overstates demand, and requires load to purchase all surplus at a price that exceeds the true cost of entry.

PJM claims that introducing a price floor, to counterweight any reduction of the existing (and excessive) market price cap, is important to maintaining investor confidence.[50] But that claim fails for lack of proof.[51] And witness Montalvo rebuts it as a matter of market design. "[R]ather than send a message to investors that a change in the price cap will always be matched with a change in the price floor, a better message to investors is that PJM will respond in an appropriate and narrowly tailored manner to address identified market failures."[52] In the long run, neither consumers nor suppliers are

[50] PJM Price Collar Filing at 5.

[51] PJM provides no evidence that its proposed price floor of $175/MW-day is needed to incent new entry, and the historical evidence is to the contrary. As Joint Consumer Advocates explained in their complaint "in eight of the last eleven auctions, thousands of megawatts of new capacity entered the market and cleared annually despite BRA prices well below PJM's Net CONE estimate." Complaint of Joint Consumer Advocates at 33-34, *Joint Consumer Advocates v. PJM Interconnection, L.L.C.*, Docket No. EL25-18-000 (Nov. 18, 2024), eLibrary No. 20241118-5200 (JCA Complaint) (quoting *id.,* Attach. A (Declaration of Marc D. Montalvo) ¶ 62). PJM's claim that its proposed price "floor will discourage resources from exiting the market" is likewise unsupported. PJM Price Collar Filing at 25. The resources PJM identifies as rescinding deactivation notices or reactivating from mothball status (*id.* at 26) did so before PJM and Pennsylvania announced their settlement. In addition, there is no evidence that a price floor at $175/MW-day is necessary to maintain resource adequacy. While the Brattle Feb. 20 Affidavit finds that the VRR curve that would result implementation of the Price Collar meets the 1-in-10 reliability standard, there has been no showing show that a VRR curve without the proposed floor poses any reliability issue. And as Joint Consumer Advocates observed in their complaint, "[a] recent IMM report estimates that 'a doubling of market revenues [from $28.92 MW-day to just $58 MW-day] could reduce the quantity of resources at risk of retirement from 33,774 MW to 18,957 MW, a reduction of 14,817 MW, or 44 percent.'" JCA Complaint at 24 (quoting Protest of Talen Energy Corp., Affidavit of A. Joseph Cavicchi ¶ 25, *Sierra Club, et al. v. PJM Interconnection, L.L.C.,* Docket No. EL24-148-000 (Oct. 21, 2024), eLibrary No. 20241021-5206).

[52] Attach. A (Montalvo Price Collar Decl.) ¶ 11.

helped by administrative interventions that raise prices needlessly and prompt consumer backlash.[53]

D. PJM's proposed floor would both overpay and overbuy.

In circumstances where PJM's proposed floor price binds and sets the market clearing price, all offers of $175/MW-day or less will clear, even if the quantity cleared well exceeds PJM's current reliability needs.[54] Witness Montalvo explains that this approach leaves customers "doubly exposed to excess costs on both price and quantity."[55] Customers may be forced to buy more capacity than they need, at prices above competitive levels.[56]

E. Precedent does not support PJM's proposal.

Joint Consumer Advocates acknowledge that there have been isolated circumstances in which the Commission has approved the imposition of temporary price floors. But those cases, including the price floor case highlighted in PJM's Transmittal Letter, are not analogous to and do not support the instant filing.

In *CAISO*, the Commission approved the temporary imposition of a price floor and price cap where the California Independent System Operator (CAISO) was moving to implement its new Market Redesign and Technology Upgrade (MRTU) energy market and had run extensive computer simulations showing that outlier cases of both excessively high

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[53] *Id.* ¶ 16; Christen Smith, Shapiro Floats Leaving PJM as Power Demand Spike Looms, TIMES OBSERVER (Mar. 3, 2025), https://www.timesobserver.com/news/local-news/2025/03/shapiro-floats-leaving-pjm-as-power-demand-spike-looms/.

[54] *See* Attach. A (Montalvo Price Collar Decl.) ¶¶ 4, 6(b). As explained by Affiant Bresler, the "price floor would effectively mean that PJM clears all Sell Offers that are submitted in the upcoming auction at a price that is no lower than the floor." PJM Price Collar Filing, Attach. C, Aff. of Mr. Frederick S. Bresler III on Behalf of PJM Interconnection, L.L.C. ¶ 16.

[55] Attach. A (Montalvo Price Collar Decl.) ¶ 6(b).

[56] *Id.* ¶ 22.

and excessively low prices were possible.[57] PJM is not proposing through its section 205 filing to move to a new market design. Indeed, PJM makes clear that even following the upcoming quadrennial review it may propose continuing to use a VRR demand curve set at Gross CONE, the very tariff provision that the pending complaints show is unjust and unreasonable.[58] And as we explained above, PJM's proposed price floor lacks any supporting analysis—let alone computer modelling of anticipated market clearing price results. In the CAISO situation, modeling had raised a concern that generators might be subject to excessively low energy prices below "*negative* $2,500."[59] Here, PJM proposes an arbitrary number unsubstantiated by any showing of need. The only outcome of its approval will be to ensure generators windfall profits on a potentially unlimited amount of cleared supply.

PJM's reliance on *ISO New England* is likewise unavailing. Far from being "not completely analogous,"[60] the case did not entail the imposition of a price floor. FERC there approved an interim price cap, combined with a minimum purchase obligation and a customer crediting scheme to safeguard against manipulative bidding practices while ISO New England, Inc. (ISO-NE) transitioned to a new market structure.[61] The Commission's

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[57] *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,082, PP 31-32 (2009) (*CAISO*). "Regarding the impact on market prices, the CAISO states that proposed price cap levels are based on MRTU market simulation results, which indicate that the proposed levels would apply to less than one percent of MRTU market clearing prices. In these limited circumstances, it is unlikely that the proposed price cap and floor would significantly distort economic incentives." *Id.* P 32.

[58] PJM Price Collar Filing at 22 n.62.

[59] *CAISO* P 31 (emphasis added).

[60] PJM Price Collar Filing at 30.

[61] *ISO New Eng.*, 88 FERC ¶ 61,316, at 61,971-61,972 (1999). "Specifically, the ISO proposes to modify Market Rule 10 to: (1) clarify that the Operable Capability obligation of participants will be reduced to the minimum levels required, even if this is below normal planning criteria; (2) credit purchasers in the energy market on a pro rata basis with Operable Capability for capacity-backed emergency energy purchases arranged directly by the ISO; and (3) cap the Operable Capability clearing price at five times the average of

decision is clear: it agreed to ISO-NE's proposal "to impose a price cap" because generators during certain market conditions "were bidding strategically to set the market clearing price."[62] There is no mention of a price floor or any words to that effect in the Commission's decision. While the case therefore says nothing about the justness or reasonableness of PJM's proposed price floor, it is perhaps not irrelevant. Here, as in *ISO New England*, there are concerns about generators being able to exercise market power through strategic bidding. In *ISO New England*, FERC sought to close the door on that behavior by imposing a temporary price cap. But PJM's price floor will ensure windfall profits, while its refusal to impose a must-offer requirement or an offer cap on demand response resources will continue to permit strategic bidding.[63]

III. BECAUSE THE PRICE FLOOR MAY NOT BE SEVERABLE FROM THE PRICE CAP, THE COMMISSION SHOULD REJECT PJM'S PRICE COLLAR FILING IN ITS ENTIRETY.

PJM's reasonable lowering of the market price cap and its unreasonable creation of an unjustified and excessive market price floor do not offset each other. If one applies, the other does not. If the market floor price binds, then the resulting price will be unjust and unreasonable, and the salutary effects of reducing the excessive cap will be of no moment.

If the two parts of PJM's proposal could be severed, then the Commission could reasonably accept the lower cap and reject the floor. But as doubt exists whether the two

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the three highest hourly market clearing prices in the previous 30 days under non-OP4 conditions." *Id.* at 61,970.

[62] *Id.* at 61,971.

[63] Answer of PJM Interconnection, L.L.C. at 8-10, 23-25, *Joint Consumer Advocates v. PJM Interconnection, L.L.C.*, Docket No. EL25-18-000 (Jan. 23, 2025), eLibrary No. 20250123-5084.

proposals can be severed,[64] the Commission should reject PJM's filing in its entirety and grant the Pennsylvania Complaint to lower the market price cap.[65]

IV. CONCLUSION

For these reasons, the Commission should reject PJM's filing and grant the Pennsylvania Complaint.

[64] *NRG v. FERC* at 114-15.

[65] In the extant circumstances, the Commission can treat PJM as having provided only a general denial in the Pennsylvania Complaint docket and grant the well-reasoned and well supported Pennsylvania Complaint summarily. PJM sought and was granted an extension of time to submit an answer to the Pennsylvania Complaint until by February 14, 2025. Notice of Extension of Time, *Commonwealth of Pennsylvania v. PJM Interconnection, L.L.C.,* Docket No. EL25-46-000 (Feb. 3, 2025), eLibrary No. 20250203-3060. No further extensions of that deadline were sought. Commission Rule 206(f), 18 C.F.R. § 385.206(f), provides: "Unless otherwise ordered by the Commission, answers, interventions, and comments to a complaint must be filed within 20 days after the complaint is filed." Rather than file a conditional answer, PJM, together with Pennsylvania, filed only a conditional motion to dismiss the complaint. *Cf. San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Serv.*, 93 FERC ¶ 61,294, at 61,991 (2000) (subsequent history omitted) (respondent submitted motion to dismiss together with conditional answer).

Respectfully submitted,

/s/ Eric DeBellis
Eric DeBellis
General Counsel
ILLINOIS CITIZENS UTILITY BOARD
309 West Washington Street, Suite 800
Chicago, IL 60606
edebellis@citizensutilityboard.org

Counsel for Illinois Citizens Utility Board

/s/ Scott H. Strauss
Scott H. Strauss
Peter J. Hopkins
Jeffrey A. Schwarz
SPIEGEL & MCDIARMID LLP
1818 N Street, NW, 8th Floor
Washington, DC 20036
scott.strauss@spiegelmcd.com

Counsel for Maryland Office of People's Counsel, New Jersey Division of Rate Counsel, and Office of the People's Counsel for the District of Columbia

/s/ Susan L. Satter
Susan L. Satter
Chief, Public Utilities Bureau
Scott Metzger
Assistant Attorney General
Kimberly B. Janas
Counsel to the Attorney General
ILLINOIS ATTORNEY GENERAL'S OFFICE
115 South LaSalle Street, 25th Floor
Chicago, IL 60603
susan.satter@ilag.gov

Counsel for the Illinois Attorney General's Office

/s/ Angela O'Brien
Maureen Willis
Ohio Consumers' Counsel
Angela O'Brien
Deputy Consumers' Counsel
OFFICE OF THE OHIO CONSUMERS' COUNSEL
65 East State Street, Suite 700
Columbus, OH 43215
angela.obrien@occ.ohio.gov

Counsel for the Office of the Ohio Consumers' Counsel

March 17, 2025

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated on this 17th day of March, 2025.

/s/ Jeffrey A. Schwarz
Jeffrey A. Schwarz

Law Offices of:
SPIEGEL & MCDIARMID LLP
1818 N Street, NW
8th Floor
Washington, DC 20036
(202) 879-4000